IN THE HIGH COURT OF UTTARAKHAND ATNAINITAL

Writ Petition No. 3026 of 2001 (M/S)
(Old CMWP No. 11598 of 1999)

State of U.P. through Divisional Forest Officer, Soil Conservation Kalsi, Dehradun.

…… **Petitioner.**

Versus

1. Presiding Officer, Labour Court, U.P. Dehradun.
2. Sri Om Prakash son of Sri Atmaram R/O Village Chandpur Post Office Harrawala, District Dehradun.

… **Respondents.**

Sri Gopal Narain Srivastava, learned counsel for the petitioner.
None appeared for the respondent no.2 despite sufficient service.

Dated April 04, 2007.

Hon'ble B.S.Verma, J.

Heard learned counsel for petitioner and perused the record. None has appeared on behalf of the respondent no.2 despite sufficient service.

This writ petition has been preferred for issue a writ order or direction in the nature of certiorari quashing the impugned judgment and award dated 7-4-1998 passed by the Labour Court (Annexure No. 8 to the writ petition).

Relevant facts giving rise to the present writ petition are that the respondent no.2 Om Prakash moved an application before the appropriate authority for making a reference under Section 4-K of the Industrial Disputes Act and the matter was registered as Dispute No. 148 of 1997 between Divisional Forest Officer Kalsi and another and Om Prakash. Notices were issued to both the parties. The employers filed their reply dated 3.1.1998 denying the allegation levelled by the workman respondent no.2. The employers further filed their written statement wherein it was contended that the employer is the Forest Department of the State

and functions under the direct control of the State, therefore the employer does not fall within the ambit of the industry under the U.P. Industrial Disputes Act and the provisions of the said Act are not applicable. The employer has further disputed that the workman had worked for a period of 240 days in a calendar year. It was also contended that the workman had earned monetary benefits by his employment during the period when he was not required under the employment of the employer, therefore, the workman was not entitled to any relief. The workman filed his reply on 24.1.1998 and again the employer filed its reply on 29-1-1998, which is Annexure No.5. Before the Labour Court the workman examined himself and his evidence was recorded on 27.3.1998. From the side of the employer, Sri Bhagwat Prasad appeared in the witness box and his statement was recorded on 25.3.1998, who has tried to support the contention of the employer.

The learned Labour Court after haring both the parties and after considering all the aspects of the case passed his award to the effect that the respondent workman cannot be reinstated in the employment, but he shall be paid compensation of Rs. 5,000/- along with Rs. 500/- as costs of the proceedings. It was also observed that the workman should be included in the scheme formulated by the employer in compliance of the order dated10-12-1997 passed by the Allahabad High Court regarding regularization of the daily wagers. Aggrieved by the order and award dated 7-4-1998 passed by the Labour Court, the employers have filed the present writ petition.

I have heard the Brief Holder Sri Gopal Narian Srivastava appearing for the petitioner and perused the entire material on record.

From a perusal of the impugned award dated 7-4-1998 passed by the learned Labour Court it is obvious that the labour court has considered the evidence in detail led by both the parties.

Consequently, the Labour Court has held that the workman is not entitled for reinstatement in the employment, but is entitled to damages of Rs. 5000/- plus Rs. 500/- litigation expenses. The contention of the learned counsel for the petitioner that the findings of the labour court are perverse is not at all tenable. The impugned order passed by the Labour Court is fully based on the basis of the evidence led by the parties. The writ petition preferred by the State is devoid of merit and is liable to be dismissed outright at admission stage.

The writ petition is dismissed in limine. The amount deposited by the petitioner with the respondent no.1, if any, in compliance of the Court's order dated 26-3-1999 shall be released in favour of the respondent no.2.

All applications stand disposed of.

(B.S.Verma, J.)

RCP